UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/1997/SR.11
9 May 1997

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Sixteenth session

SUMMARY RECORD OF THE 11th MEETING

Held at the Palais des Nations, Geneva,
on 5 May 1997, at 3 p.m.

Chairperson: Mr. ALSTON

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GE.97-16439 (E)

The meeting was called to order at 3.05 p.m.

ORGANIZATION OF WORK (continued)

1. The CHAIRPERSON announced that the Legal Counsel of FAO would be addressing the Committee the following morning in connection with the World Food Summit Plan of Action, which called for detailed elaboration of article 11 of the Covenant and for exploring ways of making that article more effective. He believed it was important that dialogue on that subject should take place.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 7) (continued)

Third periodic report of the Russian Federation (E/1994/104/Add.8; HRI/CORE/1/Add.52/Rev.1; E/C.12/Q/Rev.1)

2. At the invitation of the Chairperson, Mr. Vladimir Varov, Mr. Kim Tsagolov, Mr. Mikhail Lebedev, Mr. Evgeniy Tchernetsov, Mr. Igor Chtcherbak, Mr. Oleg Malginov, Mr Youri Boitchenko and Mr. Vladislav Ermakov (Russian Federation) took places at the Committee table.

3. The CHAIRPERSON invited Mr. Varov, head of the delegation of the Russian Federation, to introduce that country's third periodic report.

4. Mr. VAROV introduced the members of the delegation, who would be joined the following day by the Minister of Health of the Russian Federation. He thanked the Committee for its attention to the matter of human rights and freedoms in his country during the present difficult period of laying the foundations of a civilized society. Seventy years of totalitarianism had had a deep economic, social, cultural and spiritual impact that had hampered subsequent improvements. Despite economic, social and economic advances, much remained to be done in establishing a society offering decent living conditions and dignity to every citizen. For that reason, particular attention was attached in his country to the International Covenant on Economic, Social and Cultural Rights.

5. The present report (E/1994/104/Add.8) was the first to have been submitted by the Russian Federation as an independent, democratic State. It sought to identify problems and weaknesses, as well as signs of improvement and successes. Since 1991, Russia had laid the foundations of democracy, had established new mechanisms for State power and had introduced a market economy. The economic, social and cultural rights and freedoms of the individual were increasingly a part of the social fabric and a consideration in State policy. People were acquiring a sense of personal responsibly in the exercise of political and economic freedoms. As a State subject to the rule of law, the Russian Federation had made the entire range of economic, social and political rights the focus of all government services.

6. However, success in those endeavours was severely hampered by the catastrophic economic situation that had existed in 1991, combined with the

weakness of the legal framework for finance, taxation and land tenure, problems of crime, corruption, inflation, declining production, a low level of technology, ineffectual management, limited competition, and other factors.

7. Those circumstances had also hampered the legislative system in its efforts to draft and adopt a range of vitally important laws. Only one third of the required new legislation had so far entered the statute books. Meanwhile, parliamentary priorities were frequently dictated by various political or economic considerations and did not always adhere to the aim of bringing order and economic and social well-being to the country.

8. Current improvements to be noted included a substantial reduction in inflation, a reversal of the decline in production, and even growth of output in some cases. However, the problems of mass poverty, rising unemployment, falling real incomes and worsening nutrition persisted, with concomitant difficulties in labour relations, education and social security, leading to widespread dissatisfaction. Some sectors of the population blamed the reformers for Russia's problems and advocated a return to the totalitarian system's demand economy, in preference to the new market economy. The current trend seemed irreversible, however, and that was demonstrated by the strengthening of the rule of law, pluralism, civil society, social partnership, political constitutionalism, the efficiency of government services, protection against discrimination and respect for ethnic differences and for the individual.

9. New and irreversible measures had been introduced affecting private property and privatization, business relations, investment and banking activities, competition, restriction of monopoly practises and consumer protection - all serving to guarantee the economic independence of individuals and corporate entities and their protection from State interference. Meanwhile, wide-ranging reforms were shortly to be introduced in the judiciary.

10. The strengthening of the social partnership necessary for achievement of a genuine social State was being undermined, however, by the grave economic situation, which had often led to non-payment of wages. A solution lay in improving tax collection mechanisms, while effective restructuring was required in the private sector to ensure competition. Social priorities would acquire a higher profile as the economy prospered, permitting structural reforms in the social sphere. Reforms were already under way in the areas of housing, social security and the pension system. Despite the recession, efforts were being made to reduce unemployment and to create jobs, while assisting the unemployed. An efficient productive labour system for all workers was the only means of eradicating poverty and malnutrition and ensuring the physical and psychological health of the population. All State bodies must function efficiently if the rights embodied in the Covenant were to be realized.

11. It was recognized that mistakes had been made during the process of instituting radical economic and social changes. The economy of the Russian Federation was undergoing transition and great store was placed in an unbiased and objective opinion of the situation in the country, which would welcome constructive suggestions from the Committee.

12. The CHAIRPERSON invited the delegation of the Russian Federation to give its response to the first three questions on the Committee's list of issues (E/C.12/Q/RUS.1).

General framework of the implementation of the Covenant

13. Mr. VAROV (Russian Federation) referring to the first question said that article 15 of the Constitution of 1993 provided that the principles and rules of international law and of international treaties entered into by the Russian Federation, including those concluded by the former USSR, were a component part of its legal system, and that international treaties took precedence over domestic law. The International Covenant on Economic, Social and Cultural Rights had been ratified by decree of the Presidium of the Supreme Soviet of the USSR in September 1973 and continued to be part of the legal system of the Russian Federation.

14. Mr. LEBEDEV (Russian Federation) said that the Constitutional Court was increasingly basing its decisions on the provisions of the Covenant. Examples were its ruling regarding the sovereignty of Tatarstan and decisions connected with the administration of justice and with constitutional guarantees. The Supreme Court continued to focus its attention on improving the effective observance of the rules of international law.

15. Mr. VAROV (Russian Federation), referring to the second question said that thousands of NGOs existed at the federal, interregional and different administrative levels of the Russian Federation. Several Ministries had established a department for relations with NGOs. The latter not only participated in preparing periodic reports, but were also involved in the activities of State organs. Current legislation gave a number of NGOs monitoring functions over the implementation and proper observance of the rights and freedoms of the individual and of the citizen.

16. Referring to the third question, he said that his Government was in favour of the preparation of an optional protocol to the Covenant.

17. Mr. SADI said that he was impressed by both the composition and the degree of preparedness of the delegation, which reflected the importance attached by the Russian Federation to dialogue with human rights bodies.

18. While he welcomed the fact that the Covenant had been incorporated in the country's domestic law, he wondered to what extent its provisions were justiciable and whether the Russian delegation could cite any instances in which they had been invoked before the courts. Also, had the Russian Government taken the Covenant into account in drawing up its programme of reforms, and were the Covenant's provisions known to the Federation's law-making bodies?

19. Mr. TEXIER welcomed the candour of the Russian Federation's report, which vividly illustrated the complexities of the present period of transition. It seemed to him that the former totalitarian regime had been replaced by a form of "wild" capitalism, or neo-liberalism, with the State

abandoning many of its administrative prerogatives, in particular its right to regulate those areas of life with which the Committee was primarily concerned, including working conditions, the payment of wages, health and education.

20. With regard to the protection of human rights, he asked what was the role of the Presidential Human Rights Commission referred to in paragraph 41 of the core document submitted by the Russian Federation (HRI/CORE/1/Add.52/Rev.1). Were there other bodies through which citizens might seek redress and did the Office of the Commissioner for Human Rights still play the leading role which it had in the past?

21. Mr. RATTRAY observed that, while economic, social and cultural rights had been incorporated in domestic law, in practice those rights were systematically violated, particularly in the workplace. The State appeared to lack the necessary machinery for enforcing employment rights in the private sector. What measures were being taken to rectify that situation? Had any employer ever been jailed for flagrant violation of those rights?

22. Mr. THAPALIA said he wished to know how the provisions of the Covenant concerning non-discrimination and equality of men and women could be invoked before the courts.

23. Mr. ADEKUOYE said that he had been deeply worried to read in reports by Amnesty International of alleged offenders being detained without due process, and also of cases of torture. What efforts were being made to raise awareness of human rights among law enforcement officials, judges and prosecutors?

24. The Government's inability to pay wages to State sector workers was attributed in the report to a shortfall in tax revenue. He asked whether that was the result of a decline in gross domestic product or of tax evasion. Given that, without adequate means, the Government would be unable to comply with its obligations under the Covenant, what measures were being taken to make the tax collecting system more efficient? He would like to see additional statistics indicating the quantity and type of foreign aid received by the Russian Federation over the previous five years.

25. Mr. RIEDEL, supported by Mr. GRISSA, said that he regretted the non-availability, in all the Committee's working languages, of the Russian Federation's written answers to the question asked by the Committee. That would hamper the latter's efforts to make constructive concluding observations.

26. Mr. VAROV (Russian Federation) said he regretted the fact that his delegation had been unable to submit written answers to the list of issues prior to the Committee's consideration of the report. The painstaking research necessary to produce a frank and objective document had led to unforeseen delays. He would raise the matter with his Government with a view to ensuring that the problem did not recur.

27. Replying to Mr. Sadi's questions, he said that, while the Covenant and other international instruments to which the Russian Federation was a party were considered an integral part of the country's legal system, the Covenant's various provisions had also been written into individual domestic laws. Even

the flawed Labour Code directly incorporated a number of principles of international law relating, inter alia, to non-discrimination, labour protection and the right to work. Legislation on trade unions adopted in 1996 reflected not only the provisions of the Covenant, but also the recommendations of experts from the International Labour Organization. A large number of draft laws aimed at enhancing the legal protection of human rights were currently before the Federation's legislative organs, including a new labour code and amendments to the existing legislation on labour protection, the minimum wage and legal responsibility for violations of labour law, particularly non-payment of wages. All draft laws were subjected to expert scrutiny to ensure their conformity with international standards before their first reading in the State Duma. Where legislation was deficient, the Committee should take into account the fact that the State legislative organs did not always adopt draft laws in the form proposed by the Executive.

28. As far as enforcement was concerned, a number of non-governmental human rights groups were carrying out independent monitoring, while trade unions had the right to seek redress before the courts on behalf of citizens whose rights had been violated. Also, there was a range of non-judicial safeguards, in particular the federal inspectorates, which monitored the observance of health and safety regulations and labour legislation. Where employers were found to be at fault, the inspectorates had the power to impose binding decisions upon them. In 1996, some 33,000 employers had been fined, while 400 cases had been passed on to the Procurator's Office with a view to initiation of criminal proceedings. The courts had also dealt with more than 100,000 civil cases relating to violations of the provisions of the Covenant, most of them involving illegal dismissal, non-payment of wages or violation of labour protection standards.

29. Referring to Mr. Texier's remarks, he believed it was incorrect to suggest that the State had abandoned all of its administrative prerogatives. Certainly, the Russian Government had given up some of its regulatory functions, as had the Governments of the majority of States in the developed world. There was, in his view, no need to regulate legitimate activity which was conducted in conformity with the law and was of benefit to the enterprise, the State and society as a whole. Nevertheless, any violations of the law must be severely dealt with. In that respect, his Government considered that it had not only a right, but also a duty, to guarantee observance of the law and of fundamental rights and freedoms.

30. Regarding the role of the Presidential Human Rights Commission, he said that it was an active body which regularly exchanged information with other organs of the State. The State apparatus for the protection of human rights also included a Presidential Commission for the Consideration of Allegations and Complaints by Citizens, which received tens of thousands of petitions each year.

31. A new law had recently been adopted giving the Commissioner for Human Rights very considerable authority, including the right to report violations to States bodies and to make recommendations directly to the Legislature. It also established regional representations of the Office of the Commissioner. The entire organization was, however, still in the process of being set up.

32. It was proving difficult to overcome the gap between the laws and the de facto situation in the Russian Federation. The Government was acting energetically to curb violations, but many stemmed from the economic and social complexities inherent in Russian society and only when it was able to cope with those would it be able to cope satisfactorily with the violations. Economic responsibility on the part of management would be the determining factor; a system had to be put in place under which there was no economic advantage for businessmen and public officials to violate the law. The administrative and criminal sanctions for delays in the payment of salaries were not always effective, but they were now being made stricter. Many cases of illegal dismissals, illegal delays in the payment of salaries and serious occupational accidents had in fact been tried in the courts, and some employers had even been imprisoned for violating labour safety regulations or failing to pay salaries.

33. Mr. GRISSA observed that it was mostly the State itself that was violating the labour laws by failing to pay salaries, not private employers.

34. Mr. VAROV (Russian Federation) confirmed that most normally operating private concerns paid their employees promptly and regularly. The problem arose with public salaries, which were paid from either the Federal budget, the budgets of administrative units of the Russian Federation, or municipal budgets, which were dependent upon tax revenues. In the past, the main difficulties had been tax evasion and declining production, but currently the tax-collection system itself was at fault. The Government had just proposed new legislation introducing a new tax code, which should remedy the situation. A few thousand formerly illegal private shareholding companies were responsible for 90 per cent of the overdue taxes. The resulting non-payment of salaries was concentrated mostly in the areas of health care and education, 60 per cent of the delayed payments affecting teachers. Public employers were liable both administratively and criminally when they failed to pay salaries. Of the 33,000 such employers who had been fined, a few thousand - such as principals of schools, hospital managers or regional directors of the national educational system - had actually diverted funds to other purposes, and in such cases the full force of the law had been applied. The State Duma was currently considering a bill introducing a special chapter into the Criminal Code concerning illegal delays in the payment of salaries, stipends, pensions and other social payments, making them punishable by fines and, in the most serious cases, by up to 10 years' imprisonment.

35. Mrs. JIMENEZ BUTRAGUEÑO asked what was the legal situation at present, before the passage of the new bill. Were violators made to pay back the money they had stolen? In other countries, in cases involving corruption, the perpetrators often got off with prison sentences without having to make restitution.

36. Mr. VAROV (Russian Federation) said that there were fairly effective laws applicable against institutions and enterprises still in operation, which provided for monetary damages consisting of the reimbursement of the amount of the unpaid wages, as indexed for inflation, as well as compensation for moral damages in some extreme cases. When the perpetrators had gone bankrupt and

absconded, however, enforcement was more difficult, although there were laws providing for searches to locate them and eventual prosecution and for seizure of the debtors' property for purposes of compensation.

37. Replying to questions raised by Mr. Ceville, he said that the provisions of the Covenant and other international instruments incorporated in the Constitution did, in fact, need to be further specified in legislation. A number of laws enunciating international norms had been passed, but more legislation was needed to bring domestic law into line with the requirements of the Covenant in particular. The Public Prosecutor and the regional prosecutors under him were responsible for monitoring compliance with all laws, including laws concerning human rights. They were empowered to monitor the legality of actions taken by other bodies responsible for human rights enforcement and also had the right to act directly, issuing orders for the cessation of violations or bringing civil or criminal proceedings on behalf of the victims.

38. Mr. ANTANOVICH asked the delegation to clarify discrepancies in the available statistics concerning the salaries of private-sector employees and of owners of small enterprises. He also wished to know what percentage of all wages were paid by the private sector and what percentage by the State, and what the average wage differences were in the two sectors.

39. Mr. VAROV (Russian Federation) said that, on the basis of admittedly inaccurate official statistics, that there were from 46 to 48 million wage earners in the Russian Federation, and 2.7 million officially registered employers, of whom 65 per cent were in the private sector. The average monthly private sector-wage was 900,000 roubles, or US$ 140. Figures on management salaries were most unreliable because few managers disclosed them and because such income as was declared was only a part of the truth. In the case of shareholding companies, for example, while the monthly wage of employees could range from 600,000 to 2 or 3 million roubles, owners could receive between 60 and 70 million roubles.

40. Referring to points raised by Mr. Adekuoye, he acknowledged the crucial need for human rights education if the law was to be given effect, and said that a broad programme had been established in both State and private institutions, to provide training for lawyers and social workers in the area of human rights. In order to educate the public, an advanced course in "basic legal knowledge" - which stressed human rights and mechanisms for their protection - was offered in all high schools. In addition, the mass media had recently been paying great attention to human rights issues, especially to cases of violation of those rights and action to secure justice through the courts. Overall, there had been a great increase in awareness of human rights in the Russian Federation.

41. There had been no data for the last five years on the extent of international cooperation and assistance and, unfortunately, aggregated data had never been kept, because of a lack of technical capability. Whereas in the past it had received aid mainly in the form of food and clothing, the Russian Federation was now receiving very varied and much more effective

forms of international assistance such as management education, transfer of technology and the like. Assistance was being provided from both governmental and non-governmental sources.

42. Mrs. BONOAN-DANDAN asked to what extent the teaching and training materials devised for human rights education focused on economic, social and cultural rights and whether the provisions of the Covenant were publicized.

43. The CHAIRPERSON, speaking in his personal capacity, related in that connection that when he had recently met in Moscow with judges of the Constitutional Court of the Russian Federation, he had been told that provincial judges could not even obtain copies of the country's federal legislation, let alone of international instruments.

44. Mr. VAROV (Russian Federation) said that both Mrs. Bonoan Dandan's question and the Chairperson's comments reflected the difficulties faced by the Government. Nevertheless, the availability of legal texts had significantly improved in recent years.

45. With reference to the teaching of economic, social and cultural rights, he said that, in addition to the large number of private schools specializing in the humanities, many higher education institutions offered programmes of training in social and cultural issues, including courses offered through the Ministry of Labour for social workers and jurists. The re-establishment of charitable institutions, such as had existed in tzarist times, was also an interesting development.

46. The CHAIRPERSON invited the delegation to respond to the questions in Part II of the list of issues (E/C.12/Q/RUS.1).

Question relating to the general provisions of the Covenant

47. Mr. TSAGOLOV (Russian Federation) said that the first two paragraphs of article 1 of the Covenant were being implemented in the Russian Federation. All the country's administrative organs enjoyed a certain amount of independence and their relationship with the central government was based on constitutional provisions and on several treaties establishing the powers of the subjects of the Federation, areas of joint authority and the powers of the Federal centre.

48. A law on national cultural autonomy, adopted on 17 June 1996, expanded the concept of national self-determination to include the concept of cultural autonomy, a recent phenomenon in the Russian Federation. The new law also broadened the scale and depth of the process of self-determination, since it enunciated the constitutional equality of all peoples, regardless of origin, thereby extending the right to self-determination to all 178 peoples of the Federation. Article 3 of the law established the primacy of international law over national law.

49. Those developments demonstrated that Russian society was moving consistently towards democratic implementation of the rights of the individual.

50. Mr. GRISSA referred to the vast area covered by the territory of the Russian Federation and its diverse ethnicity and observed that, notwithstanding the legislation that had been enacted, there were tangible indications that some groups within the Federation faced grave obstacles in the exercise of their rights under the Covenant. He would like the delegation to provide specific information in that regard.

51. Mr. RIEDEL said that since the creation of the Commonwealth of Independent States (CIS) there had been a great amount of movement of the population throughout the former Soviet Union. A distinction had to be made between scattered peoples and peoples forming settled communities, to which the concept of self-determination more readily applied. He would welcome a factual account of the measures taken to ensure the enjoyment of economic, social and cultural rights by the large number of people who had moved away from traditional settlements to the outskirts of large cities.

52. Mr. SADI observed that self-determination also had an economic dimension. Given the negative side effects of the economic trend in the Russian Federation, he would like to know to what extent the people had been involved in the choice of macroeconomic policy adopted by the Government.

53. Mr. TEXIER referred to developments in Chechnya and asked for information on the consequences of the war in that region and, in particular, on the situation of persons displaced by the conflict.

54. Mr. THAPALIA asked the delegation to provide information on measures taken by the Government of the Russian Federation to protect women against discrimination on the grounds of sex and to provide assistance for women in the area of employment.

55. Mr. TSAGOLOV (Russian Federation) said that the enactment of the laws referred to in the report demonstrated the manifest will of the State to promote the right of self-determination for all peoples. In conjunction with legislative measures, a series of major programmes had been adopted to provide economic assistance for development of the administrative organs of the Federation.

56. Replying to Mr. Texier's question, he said that the situation in Chechnya was indeed alarming and that there had been official acknowledgement that developments there had been regrettable. However, the problem in Chechnya included the issue of secession, which was an entirely different matter from self-determination. Every State had the right to maintain its territorial integrity.

57. On the question of population movements, he informed the Committee that his delegation would provide a written report concerning migration issues.

58. Mr. VAROV (Russian Federation) said he did not believe it was time that the Russian people had been insufficiently involved in the development of economic policy. Through a 1993 referendum, which had dealt with aspects of social and economic policy, and through subsequent presidential elections, the people of Russia had had an opportunity to participate in various aspects of the decision-making process.

59. In response to Mr. Texier's request, he informed the Committee that the Government of the Russian Federation was currently finalizing a number of agreements with the leaders of the Chechen Republic aimed at the constructive resolution of the situation in that region. They covered a broad range of subjects relating to all aspects of life in Chechnya, including the situation of displaced people, compensation and housing.

The meeting rose at 6.00 p.m.